

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Implementation of the Commercial)	WT Docket No. 05-211
Spectrum Enhancement Act and)	
Modernization of the Commission's)	
Competitive Bidding Rules and)	
Procedures)	

REPLY COMMENTS OF CABLEVISION SYSTEMS CORPORATION

Cablevision Systems Corporation ("Cablevision") respectfully submits these reply comments on the Commission's Further Notice of Proposed Rulemaking, issued February 3, 2006, in the above-captioned proceeding.^{1/}

INTRODUCTION

Cablevision's comments in this proceeding relate to the Commission's specific proposal to restrict Designated Entities from partnering with "communications services" companies generally in future wireless auctions.^{2/} To the extent that the Commission is, through its proposal in this *FNPRM*, seeking to curb consolidation in the wireless industry, Cablevision urges it not to expand its proposed prohibition to include other

^{1/} *Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission's Competitive Bidding Rules and Procedures*, WT Docket No. 05-211, Further Notice of Proposed Rulemaking, FCC 06-8 (rel. Feb. 3, 2006) ("*FNPRM*").

^{2/} While Cablevision acknowledges that the Commission's focus in this proceeding is on the role of large, in-region incumbent wireless carriers, as set forth further in these comments, it feels strongly that the proposed prohibition should not be extended to other communications service providers, such as cable operators like Cablevision, which are not incumbents in the wireless industry.

“entities with significant interests in communications services.”^{3/} Barring Designated Entities from maintaining a relationship with businesses that are not among the largest incumbent wireless carriers would deprive Designated Entities of some of the expertise, capital, and vertical integration opportunities that would be essential to make meaningful inroads against existing incumbent operators. Further, adoption of a policy barring such partnerships would be entirely new ground for the Commission and, as such, might prove contentious and time consuming, potentially delaying upcoming wireless auctions (such as the Advanced Wireless Services auction), or inviting judicial challenge. Such delays would undermine entirely the Commission’s goal of accelerating market development of this spectrum in general and of accelerating new and Designated Entity entry specifically.

DISCUSSION

Several commenters emphasize that small entities, if they are to participate successfully in spectrum auctions, require access to capital from existing communications firms and investment entities with substantial holdings in such firms.^{4/} Communications-

^{3/} *Id.* at ¶ 5.

^{4/} *See, e.g.*, Comments of Council Tree Communications, Inc. at 36-41 (arguing against such restrictions because (1) there is no problem currently existing with relation to other communications firms, (2) undertaking to prohibit such relationships would unnecessarily complicate this proceeding, and (3) such a prohibition would deny small firms necessary capital); Comments of National Association of Broadcasters at 1-5 (arguing that restrictions on investment by other communications firms could deprive small entities of needed capital); Comments of Antares, Inc. at 4 (“One of the most logical avenues for DEs to pursue to attract capital is to partner with larger entities in related industries, such as the communications industry generally.”); Comments of Doyon Communications at 1 (“Other communications service providers are not dominating the wireless services industry, and they are an important source of capital and expertise for new entrants.”); Comments of Leap Wireless International, Inc. at 16-17 (arguing that other communications firms are not part of the wireless spectrum concentration problem, while they are important sources of capital for small entities); Comments of Madison Dearborn Partners, LLC at 2 (expanding prohibition to all communications service providers will serve only to limit further the capital available to

sector firms provide a natural partnership opportunity for smaller entities seeking to enter the wireless market or expand their footprints. Indeed, a cable operator desiring to provide a “quadruple-play” offering of video, high speed data, wireline voice, and wireless service may very well choose to rely on the wireless facilities and services of a Designated Entity partner instead of acquiring its own licenses and constructing and operating its own wireless network.^{5/} Arrangements of this sort are beneficial to both the Designated Entity and the cable operator, and they further the statutory purpose of the Designated Entity program -- “ensur[ing] that small businesses, rural telephone companies, and businesses owned by members of minority groups and women are given the opportunity to participate in the provision of spectrum-based services.”^{6/}

As the National Association of Broadcasters (“NAB”) points out, the Commission has determined that access to capital is the primary market entry obstacle for small businesses.^{7/} In such an environment, where smaller entities face both increased market concentration and an acute capital crunch, it would be illogical to impose a restriction that could severely exacerbate the problem.

Further, companies with interests in “communications services” are the ones *most likely* to benefit from partnerships with Designated Entities in order to expand the reach

small entities); Comments of the Minority Media and Telecommunications Council at 10-11 (arguing that other large communications firms will bring competition, rather than spectrum concentration, to the market through capital investment); Comments of STX Wireless LLC at 2 (arguing that other communications firms such as cable operators are frequently natural partners with small wireless firms and provide a needed source of capital); Comments of US Wirefree at 2 (financial backing of small wireless entities by other existing non-wireless communications firms fosters competition with the large incumbent wireless carriers).

^{5/} See, e.g., Comments of STX Wireless LLC at 2.

^{6/} 47 U.S.C. § 309(j)(4)(D).

^{7/} Comments of NAB at 2.

and scope of their core business. Barring “communications services” companies from partnering with Designated Entities would not only reduce the pool of capital available to the Designated Entities generally, but would eliminate from the pool of potential partners those companies that have the greatest incentive to become involved in any proposed wireless venture.

Finally, as a practical matter, establishing the parameters of an extension of the proposed restriction to some universe of entities beyond large incumbent wireless carriers (which the Commission proposes to define through application of a revenue test)^{8/} would require further, potentially controversial proceedings. Particularly since the Commission intends that the rules adopted in this proceeding be applied to the upcoming Advanced Wireless Services auction,^{9/} Cablevision encourages the Commission to avoid the risk of delaying that auction in order to work out the details of what appears to be an inadvisable restriction.^{10/}

^{8/} *FNPRM* at ¶ 17.

^{9/} *FNPRM* ¶ 1.

^{10/} *See, e.g.,* Comments of Council Tree Communications at 37-39.

CONCLUSION

For the reasons set forth above, Cablevision urges the Commission not to extend its proposed prohibition on partnerships between wireless carriers and Designated Entities to other “entities with significant interests in communications services”

Respectfully submitted,

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